

EDMONDS CITY COUNCIL APPROVED MINUTES

Special Monday Meeting

November 1, 2010

At 6:00 p.m., Mayor Cooper announced that the City Council would meet in executive session regarding labor negotiation strategy, and pending and threatened litigation. He stated that the executive session was scheduled to last approximately one hour and would be held in the Jury Meeting Room, located in the Public Safety Complex. No action was anticipated to occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Cooper, and Councilmembers Bernheim, Plunkett, Buckshnis, Peterson, Petso and Wilson. Others present were City Attorney Scott Snyder, Attorney Mark Bucklin, Human Resources Director Debi Humann, Police Chief Al Compaan, City Engineer Rob English, Public Works Director Phil Williams, and City Clerk Sandy Chase. At 6:58 p.m., City Clerk Sandy Chase announced the executive session would be extended until 7:30 p.m. The executive session concluded at 7:32 p.m.

The regular City Council meeting was called to order at 7:38 p.m. by Mayor Cooper in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with the flag salute.

ELECTED OFFICIALS PRESENT

Mike Cooper, Mayor
Steve Bernheim, Council President
D. J. Wilson, Councilmember
Michael Plunkett, Councilmember
Lora Petso, Councilmember
Strom Peterson, Councilmember
Diane Buckshnis, Councilmember

ELECTED OFFICIALS PRESENT

Adrienne Fraley-Monillas, Councilmember

ALSO PRESENT

Peter Gibson, Student Representative

STAFF PRESENT

Al Compaan, Police Chief
Stephen Clifton, Community Services/Economic Development Director
Brian McIntosh, Parks & Recreation Director
Phil Williams, Public Works Director
Lorenzo Hines, Finance Director
Debi Humann, Human Resources Director
Rob Chave, Planning Manager
Rob English, City Engineer
Carl Nelson, CIO
Rich Lindsay, Park Maintenance Manager
Gina Coccia, Planner
Scott Snyder, City Attorney
Sandy Chase, City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. APPROVAL OF AGENDA

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.

2. CONSENT AGENDA ITEMS

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO APPROVE THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

- A. **ROLL CALL**
- B. **APPROVAL OF CITY COUNCIL MEETING MINUTES OF OCTOBER 26, 2010.**
- C. **APPROVAL OF CLAIM CHECKS #121988 THROUGH #122135 DATED OCTOBER 28, 2010 FOR \$203,707.12.**
- D. **ACKNOWLEDGE RECEIPT OF A CLAIM FOR DAMAGES FROM LESLIE CHANDLER (\$317.55).**
- E. **CONFIRMATION OF MICHELLE VAN TASSELL AND MATTHEW MOORE TO THE SISTER CITY COMMISSION.**

3. **DISCUSSION AND POTENTIAL ACTION ON A PROPOSED DRAFT CITY OF EDMONDS 2011 LEGISLATIVE AGENDA.**

Community Services/Economic Development Director Stephen Clifton introduced Lobbyist Mike Doubleday who provided highlights of the 2010 State Legislative Session:

- \$250,000 was provided in the Supplemental Transportation Budget for the Shell Valley Emergency Road Access project.
- The supplemental capital budget contains one-time funding for cities' stormwater mandates.
- The Transportation Benefit District statute was amended to clearly state that city projects are an allowed use for TBD funding.
- Comprehensive Plan updates for cities were pushed back from 2011 to 2014.
- Upgrade the 911 system to allow text messages to work with the system.

He reviewed Edmonds' 2011 State Legislative Agenda:

Top Priority

1. **Edmonds Crossing** – Support a continued partnership with the DOT Public Private Partnership Office to develop a workable safety solution at the Edmonds waterfront for pedestrian ferry riders.
2. **Protect State-Shared and State-Committed Revenues such as:**
 - Liquor profits and taxes
 - The municipal criminal justice account
 - The Public Works Trust Fund
 - The Washington Wildlife and Recreation Program
3. **Local Fiscal Flexibility** – Support a package of local fiscal flexibility measures such as:
 - Unifying the uses of the first and second quarters of the local Real Estate Excise Tax (REET), including flexibility to use the local REET for parks maintenance and operations.
 - Additional flexibility with lodging taxes.
4. **Public Records Requests** – Support legislation to provide some relief for cities and other governmental agencies from overly burdensome public records requests.
5. **Street Maintenance Utility Authority** – Support the Street Maintenance Utility Authority legislation as both a management tool and a funding source for local transportation systems riders.
6. **Transportation Revenue Package** – Support the enhancement of a statewide transportation revenue package to address infrastructure projects in Edmonds.
 - Edmonds' highest transportation funding priority is the 228/SR99 safety project.

- Seek support for an engineering pre-design, detailed traffic study and ROW plan for a signature, five-legged roundabout at Five Corners.
- 7. **Edmonds Main Street Rebuilding Project** – Seek capital budget funding for the Edmonds Main Street Rebuilding project (from 5th Avenue North to 6th Avenue North).
- 8. **Phase II Stormwater Funding** – Seek state funding for cities including Edmonds so they can continue to meet Phase II stormwater requirements. Seek a delay of further stormwater requirements now scheduled for 2012.
- 9. **LEOFF 1 Medical Costs** – Oppose any further expansion of LEOFF 1 retiree medical benefits without an alternative funding source.

Secondary Priority

1. **Airport Siting** – Monitor legislation that seeks to site a new commercial airport in the Puget Sound region.
2. **Aerospace Industry** – Support the Washington Aerospace Partnership and other stakeholder groups in developing a unified strategy to ensure Washington State remains the leading location in the world for aerospace.
3. **Economic development** – Support tax-increment financing (TIF).
4. **Driving While License Suspended** – Monitor legislation that reduces DWLS 3 to an infraction which will reduce the large number of DWLS 3 cases in municipal court.
5. **Public Safety Authority** – Monitor discussion of a Public Safety Authority, a separate taxing authority dedicated to police services.
6. **Red Light Cameras** – Preserve authority for cities to implement red light camera technology.
7. **Gang Activity** – Support additional tools for combating gang activity including intervention and prevention activities.
8. **Vehicle Prowling** – Support additional penalties for vehicle prowling.
9. **Business License Streamlining** – Monitor discussion around local government business license streamlining.
10. **Additional Revenue Authority for Transit Agencies** – Monitor transit agencies, including Community Transit, legislation that will likely request additional revenue authority in order to avoid large cuts in service.

Councilmember Wilson thanked Mr. Clifton for drafting the legislative agenda earlier this year. He requested additional time to suggest changes to the agenda. He inquired about tax increment financing (TIF). Mr. Doubleday explained typically a specific area is selected for a TIF. A base level of property tax or sales tax is established; in Washington it is required to be sales tax. A public structure/amenity is constructed and funded via bonds to attract private sector business. The sales tax is increased once the public structure/amenity is constructed and the funds generated by the sales tax between the base amount and the increase used to pay the bonds. Councilmember Wilson asked if it would require a vote of the property owners in the district. Mr. Doubleday answered it usually requires a vote of the Council to form the district and may require a vote of the people.

Councilmember Wilson asked if a TIF was similar to a local improvement district (LID). Mr. Doubleday answered in a LID, the funds are raised directly from property owners. With a TIF, the funds are raised via the increase in the sales tax above the base rate.

Councilmember Wilson asked how staff identified the priority projects in the Top Priority #6, Transportation Revenue Package. Public Works Director Phil Williams responded the City was recently selected to receive grant funding for design and right-of-way acquisition for the 228th/SR99 project. Receiving a grant for those two phases allows the City to compete well in the same source of funds for construction. Construction of the 228th/SR99 project is not envisioned until 2014. With regard to the

roundabout at Five Corners, the City applied for a federal Congestion Mitigation and Air Quality (CMAQ) grant for the roundabout. There were six applications and funding was awarded to four projects; Edmonds' project was sixth. However two of the projects are not going forward, making it possible that the City will receive funds from that source for the first phases of the Five Corners roundabout. He agreed with supporting a transportation revenue project to ensure funds were available for later phases of those projects.

Councilmember Wilson inquired about the Public Safety Authority legislation and how it compared to a Regional Fire Authority (RFA). Mr. Doubleday answered the legislation has not yet been written. He envisioned it as a separate taxing authority/district to fund police services outside the General Fund budget. He envisioned the governance would include members of the City Council to ensure there was direct authority. He doubted it would be approved this year but would be discussed. Councilmember Wilson expressed his support for Public Safety Authority legislation and preferred it be modeled similar to a Fire District and less like a Transportation Benefit District (TBD). Mr. Doubleday envisioned it would be modeled after the Regional Fire Protection Services Authority that has been established in Kent.

With regard to Additional Revenue Authority for Transit Agencies (#10 in the secondary priority), Councilmember Wilson commented at some point the City would be competing with other agencies regarding the total amount of property tax. Because Edmonds has such a low property tax rate compared to other agencies, he did not want Community Transit to consume the City's ability to fully fund itself. Mayor Cooper agreed, explaining transit authorities rely primarily on sales tax; a bill that made it through the House but did not get out of committee in the Senate last year gave transit authorities the ability to do vehicle license fees which would have competed with cities with TBDs. Snohomish County did not support that legislation unless the legislature could ensure it would not compete with TBDs.

Councilmember Wilson suggested striking Red Light Cameras (#6 in the secondary priority) from the list. He advised the Lake Ballinger Forum is working on its capital funding request.

Councilmember Petso referred to #1 on the top priorities, Edmonds Crossing. She asked whether that was only in regard to moving the ferry terminal to the location south of downtown. Mr. Doubleday suggested that item be renamed Washington State Ferries (WSF). Councilmember Petso asked what the project was and where it would be located. Mr. Clifton responded it was unknown at this time what the project will be. Earlier this year WSDOT issued a RFQ to attract developers to build an overpass over the railroad tracks in exchange for the WSF parking lot south of the Skippers property. There were no submittals from the private sector for that project. In 2009 the legislature set aside \$200,000 specifically to address safety issues at the Edmonds terminal. He hoped to retain those funds to allow the City to work with WSF regarding a pedestrian safety improvement.

Councilmember Petso questioned whether the City would provide WSF an incentive to expand routes if the City pursued improvement projects at the Main Street terminal. Mr. Clifton answered not in this case. Councilmember Petso asked whether a pedestrian overpass to the terminal would encourage WSF to expand service at the Edmonds site rather than moving to the location to the south. Mr. Clifton answered most everyone wanted a safer pedestrian crossing across the railroad tracks than currently exists.

Councilmember Petso asked why WSF chose to accomplish the overpass via a private-public partnership. Mr. Clifton answered it was WSF's way of creatively financing the pedestrian crossing using private sector dollars.

Council President Bernheim advised next week's committee agendas will include discussion of the legislative priorities. He recalled the Council has passed the legislative priorities in January in the past.

Mr. Doubleday preferred the Council approve the list sooner than January to allow him to meet with the City's delegation prior to the start of the session on January 10.

Council President Bernheim recalled on January 19 the Council voted to add lobbying to make marijuana criminal offenses an infraction but that was not included on this legislative agenda. He asked Mr. Doubleday if he had lobbied on that topic last year. Mr. Doubleday answered by the time he received direction from the Council, the hearing had passed and the bill was not proceeding.

Councilmember Peterson referred to Phase II Stormwater funding (#8 in the top priority) and asked whether the toxic tax or other funding would be pursued this year. Mr. Doubleday anticipated it would return this year. If the 2/3rds initiative passes, it was unlikely to progress. There is an effort by the environmental community to take it to a ballot next year.

Councilmember Peterson inquired about the delay of further stormwater requirements now scheduled for 2012. Mr. Doubleday explained the Department of Ecology (DOE) is scheduled to add new rules in 2012; there is some concern with that timeline due to the cost. DOE is not inclined to agree to a delay.

Councilmember Buckshnis requested a meeting with Mr. Doubleday to discuss WRIA 8's efforts. She asked if there had been discussion regarding bills to protect Puget Sound and having pharmacists accept leftover prescription drugs rather than the current practice of citizens flushing them. Mr. Doubleday responded HB1165 did not move forward last year; he anticipated it would be returned this year.

Mayor Cooper encouraged the Council to consider scheduling approval of the legislative agenda on the November 23 meeting. The legislature meets for committee days on December 1-3 and that is when bills are introduced and a great deal of planning is done in preparation for the session. November and December is the time to meet with the delegation and inform them of the City's agenda. The first 2-3 weeks of calendaring is done before the session starts. With regard to the projects Councilmember Wilson inquired about, Mr. Doubleday is organizing a field trip for the City's delegation of those projects to educate them regarding the City's capital requests. With regard to the priorities in #6 of the top priority list, he asked Mr. Williams to identify projects that the City has the ability to partner with the State and Federal government for funding; Five Corners and 228th/SR99 are well suited to partnerships.

Anticipating the election would result in a Republican majority, Councilmember Wilson asked how City issues would fare with a republican versus democratic caucus. Mr. Doubleday answered they would not fare as well. Councilmember Wilson asked about public records requests and taping of executive sessions. Mr. Doubleday answered that was an issue with newspapers and was not necessarily a partisan issue.

Mr. Clifton suggested Councilmembers forward additional legislative agenda items to him. Mayor Cooper suggested consideration also be given to including stronger language in the transportation budget regarding the Main Street ferry terminal.

Mr. Clifton distributed a copy of the Puget Sound Watershed Health and Salmon Recovery legislative agenda forwarded to him by Councilmember Buckshnis.

4. PUBLIC HEARING ON AN ORDINANCE ADOPTING A NEW CHAPTER 17.105 ECDC TO DEFINE EMERGENCY TEMPORARY INDOOR SHELTERS AND IDENTIFY ZONING DISTRICTS WHERE THEY ARE PERMITTED.

Planner Gina Coccia explained there is an interim ordinance in place. This ordinance expresses support for public or nonprofit agencies to safely provide temporary emergency indoor shelters to indigent persons and allow for a building compliance permitting process. This dovetails with the new ECDC

19.00.040. She provided an example of a church that is non-conforming because it does not have fire sprinklers that wants to house homeless persons when the temperature drops below 32 degrees. This ordinance would also them to do so through a building compliance permit process which requires review by the City's Building Official and Fire Marshal. It would be a temporary change of use for no more than 180 days. The ordinance adopts the following State requirements:

1. The change of use does not impose a threat to the public's safety, health and welfare
2. Administration of the building is by a nonprofit or public agency
3. The change of use is no more hazardous than the existing use, and
4. The use is temporary in nature.

The Planning Board reviewed the matter and held a public hearing where two citizens spoke in favor. The Planning Board unanimously recommended approval of the ordinance.

Councilmember Petso asked if temporary emergency indoor shelters would be allowed everywhere in the City. Ms. Coccia replied yes, it relates to all zones where local public facilities or churches are a primary or secondary use. City Attorney Scott Snyder explained the ordinance mirrors the State's requirements.

Mayor Cooper opened the public participation portion of the public hearing.

Ilene Hansen, Pastor, Trinity Lutheran Church, Lynnwood, thanked the Council for its past support of churches and nonprofits to address the increasing need for temporary emergency indoor shelters and invited the Council's present and future support. This winter is expected to be very cold, similar to the first year they operated an emergency cold weather shelter when they provided 474 beds over 34 nights. She expected to provide at least that much this year. The shelter engages not only people within the faith communities but also a number of private citizens who assist with serving those in need

Mark Walden, Trinity Lutheran Church, explained he and his wife are co-coordinators for the church's cold weather shelter. There are many in the community who are interested in volunteering their time and efforts with regard to the shelter. He thanked the Council for adopting the interim ordinance and the City's efforts to get the Jeremiah Center approved as one of their shelters along with a couple in Lynnwood. He noted it was difficult to find facilities that meet the R1 codes and they are working diligently to address the life safety issues associated with the variance to the building code.

Dorothy Sax, Edmonds, explained she has been involved with the Trinity Lutheran Neighbor in Need program on Saturday mornings. She thanked the Council for their support of the cold weather shelter, explaining there are a number of churches in Edmonds as well as private citizens who assist with the cold weather shelter and the Neighbors In Need program.

Hearing no further comment, Mayor Cooper closed the public participation portion of the public hearing.

Councilmember Wilson thanked Pastor Hansen and Keri Walsh-Ayers who helped the Council research options. He noted this has been a contentious issue in some cities but has not been in Edmonds. He was proud to have an opportunity to approve this ordinance.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO APPROVE ORDINANCE 3814, ADOPTING A NEW CHAPTER 17.105 ECDC TO DEFINE EMERGENCY TEMPORARY HOMELESS SHELTER AND IDENTIFY ZONING DISTRICTS WHERE THEY ARE PERMITTED, REPEALING ORDINANCE NOS. 3730, 3769 AND 3794.

Student Representative Gibson asked how many homeless people live in Edmonds. Mayor Cooper explained Snohomish County conducts an annual count of the homeless people in the County. Pastor

Hansen commented it was difficult to count people versus beds. The first year they were in operation they provided 474 beds; last year they provided 240. The Saturday morning Neighbors In Need program serves approximately 110-120 people every week. That includes not only people living outdoors and cars but people who are living below the poverty line.

Councilmember Wilson explained Snohomish County conducts an annual count. Mayor Cooper recalled the count last year was 1200; the number varies depending on the weather; the homeless may be in shelters on the night the count is done. He noted most of the homeless are in urban areas in South Snohomish County and Everett; there are a fair number of homeless camps in south Snohomish County near Edmonds' borders.

Councilmember Wilson encouraged citizens to volunteer with the Neighbors In Need program at Trinity Lutheran Church. He and his 3-year old son have assisted with that program.

Councilmember Peterson thanked Councilmember Wilson who spearheaded this effort and brought it to the Council's attention last year. He agreed this has not been a contentious issue in Edmonds; everyone he has spoken with has been very supportive. He expressed thanks to the Planning Board, City staff and citizens who developed the ordinance. He agreed this was one of the most important things the Council could do.

Council President Bernheim asked when the ordinance would be scheduled on the Consent Agenda for approval. Mr. Snyder advised the Council would be approving the ordinance tonight. City Clerk Sandy Chase advised the ordinance would be published on Sunday and it would be effective five days later, the following Friday.

MOTION CARRIED UNANIMOUSLY.

5. PUBLIC HEARING ON AN ORDINANCE ADOPTING A NEW CHAPTER 17.20 RELATING TO TEMPORARY HOMELESS ENCAMPMENT PERMITS AND FREQUENCY, DURATION, AND CONDITIONS.

Planner Gina Coccia explained this ordinance is intended to respect Edmonds neighborhoods by establishing a process for permitting temporary encampments like a tent city. The City Attorney has researched other jurisdictions' codes and provided the Planning Board those ordinances for review. The proposed ordinance would provide a code should a tent city choose to establish itself in Edmonds; there is currently no code. The ordinance would provide for public notice, an opportunity for public comment and ability to negotiate the terms of the permit via a public hearing process with a decision by the Hearing Examiner as a Type IIIA permit. The City cannot prohibit a tent city from locating within the city limits but can establish a code to impose reasonable conditions with regard to safety, health and welfare for use of the property.

The proposed standards are contained in page 3 of Attachment 1 and would be contained in a new chapter of the ECDC, 17.20.030. Ms. Coccia reviewed highlights of the proposed standards:

- No more than one permit for the same location more frequently than once in a 365 day period.
- The site must be restored to its pre-encampment condition within one week from the permit expiration.

The permit requirements for a tent city are contained in ECDC 17.20.050 (Attachment 1) which includes public notice and a community informational meeting. The Planning Board held a public hearing and did not receive any public testimony. The Planning Board unanimously recommended approval of the ordinance.

Councilmember Petso asked if the Planning Board discussed the distance a homeless encampment should be to transit service. City Attorney Scott Snyder answered the ordinance specified ½ mile. Councilmember Petso asked whether the Planning Board discussed that distance. Council President Bernheim referred to page 7 of the Planning Board's February 24 minutes.

Councilmember Wilson asked why a duration of 90 days out of 365 days was selected. Mr. Snyder answered there has been extensive litigation in Woodinville to the State Supreme Court. The duration of 90 days was one of the conditions that has been upheld. These are temporary encampments typically by host cities as an adjunct to their exercise of religious practice.

Councilmember Wilson referred to page 3 of the ordinance where it states that the encampment should not be located in a critical area. He noted gentle slopes in the City often trigger the Critical Areas Ordinance (CAO). Mr. Snyder answered an encampment could not be located in a steep slope environment. There is a difference between the Meadowdale landslide hazard area and specific critical area and environments within that area. For example an encampment could be located in the Meadowdale area but not in a wetland or a steep slope. Ms. Coccia explained there were two types of geologically hazardous areas, erosion hazard areas which is any slope between 15% and 39% and landslide areas that are slopes upward of 40%.

Councilmember Wilson questioned if the CAO would be triggered for use of the church property at 9th & Caspers due to the gentle slope. He did not want that regulation to be an impediment to a church hosting an encampment. Ms. Coccia answered she would need to consider the exact slope on that property. The ordinance allows case-by-case consideration; it will be up to the host to provide a site plan. She did not envision an encampment would be proposed on a steep slope due to logistics. Mr. Snyder pointed out that if the goals of the ordinance can be met, the Hearing Examiner has the authority to waive the standards in Chapter 17.20.030 with the exception of R, S, T and U.

Councilmember Wilson clarified his concern was not camping on a steep slope; his concern was a property that had a drop in the first few feet and the remainder of the site is flat which may trigger the CAO. It is the Council's intent to be as flexible as possible and not have a strict reading of the ordinance to become an obstacle to siting an encampment. Ms. Coccia clarified his concern was related to erosion hazard areas which have a slope of 15-39%.

Councilmember Peterson referred to Item H in 17.20.030, that does not permit children under the age of 18 to stay overnight in the temporary homeless encampment and asked whether that was typical of other jurisdictions' regulations. Ms. Coccia answered some jurisdictions established an age limit, others did not. Mr. Snyder recalled this requirement was contained in Bellevue's ordinance and was added to the draft ordinance at the Planning Board's specific request.

Councilmember Peterson relayed his understanding that tent cities created a safer atmosphere for families that may have children under the age of 18 compared to living under a bridge or in a car. He agreed an attempt should be made to find alternative shelter and asked what happened if no alternate shelter was available. Mr. Snyder answered if no alternative could be identified, children under 18 could be permitted with a parent or guardian; children under 18 that are not accompanied by a parent or guardian are not allowed in the temporary homeless encampment.

Councilmember Peterson relayed his concern that a 16-year old would be turned away if another alternative could not be identified. Ms. Coccia recalled the Planning Board discussed that issue and decided the host should be responsible for addressing that situation and not the City. Mr. Snyder advised

standards A-Q in 17.20.030 were subject to modification or waiver at the request of the host in the Hearing Examiner process.

Councilmember Wilson commented many of the homeless are under the age of 18. He understood the rationale of not allowing children under 18 that are not accompanied by a parent or guardian. He suggested restating the last sentence in Item H so that the managing agency has some expressed responsibility for the safety of unaccompanied children; that they serve in a guardian capacity for anyone under the age of 18 in lieu of the presence of a parent. Mr. Snyder explained this is an enabling ordinance; it would be up to the managing agency to adopt their own rules. The City could establish that children under the age of 18 were not prohibited.

Councilmember Wilson inquired about the possession of firearms. Mr. Snyder advised a tent or homeless shelter is an individual's place of abode and they have constitutional protections in their place of abode. There are constitutional limitations on the City's ability to regulate weapons as a municipality and the City could not impose that as a rule of conduct.

Councilmember Peterson asked if the host agency could impose that as a rule of conduct. Ms. Coccia answered they could. Councilmember Wilson asked whether the City could require in the application process that the host agency prohibit firearms. Mr. Snyder answered no. Councilmember Wilson asked if the City could be creative in ensuring there were no guns in a tent city. Mr. Snyder reiterated there were constitutional rights with regard to firearms. Councilmember Wilson suggested the City regulate the buffer around a tent city and not permit guns in that area. Mr. Snyder responded the City's ability to regulate guns on public streets and parks for citizens with a valid permit was beyond its authority according to the Washington State Attorney. The legislature has exempted the City and Councilmembers from liability for what occurs in a tent city. Councilmember Wilson suggested including a value statement as one of the ordinance's whereas clauses.

Councilmember Plunkett commented the right to protect oneself, rich or poor, could not be taken away in one's home. He asked how the hosting agency could do that. Mr. Snyder answered every private property owner has the ability to exclude weapons of any kind from his/her property. Councilmember Plunkett asked whether that would apply to an owner of an apartment complex. Mr. Snyder answered the constitutional provisions restricts governmental limitations on a person's' right to bear arms under the Second Amendment. It does not apply to private property owners who have the ability to exclude.

Student Representative Gibson recognized tent cities have been a big deal in other cities. He asked how far a tent city could be located from a school in the event there were sex offenders living there. Mr. Snyder answered that was a separate regulatory issue. The ordinance allows for screening to determine whether an individual can be in the location. Edmonds does not have a law that restricts where sex offenders can reside and the State has preempted communities' ability to regulate that.

Mayor Cooper opened the public participation portion of the public hearing. There were no members of the public present who wished to provide testimony and Mayor Cooper closed the public participation portion of the public hearing.

Councilmember Petso referred to page 7 of the Planning Board's February 24 minutes, advising the Planning Board did discuss the distance from a transit stop; the minutes only state that the City is allowed to regulate the distance from a transit stop. She objected to the ½ mile distance from a transit stop, relaying her experience with a transit-dependent population locating in her neighborhood during the day. Because of the distance to a transit stop, unforeseen problems emerged that would not have existed had the facility been located on a transit corridor. She suggested Item G in 17.20.030 be revised to read, "The temporary homeless encampment shall be located ~~within ½ mile of transit service~~ on a transit route." She

was uncertain how many churches would then be required to seek a variance via the Hearing Examiner but preferred to have that protection in place. She acknowledged a church located within a neighborhood such as the Presbyterian Church between Westgate Elementary and SR104 would be required to make their case to the Hearing Examiner. Most churches in Edmonds are located on a transit corridor and would not be affected by this change.

Council President Bernheim asked whether the proposed ordinance would be implemented in the same manner as the previous ordinance. Mr. Snyder answered if it is given a number, it passes tonight and is effective in the timeline described by the City Clerk.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO ADOPT ORDINANCE, NO. 3815, ADOPTING A NEW CHAPTER 17.20 ECDC RELATING TO TEMPORARY HOMELESS ENCAMPMENT PERMITS AND FREQUENCY, DURATION, AND CONDITIONS.

Councilmember Wilson explained as work began on the temporary homeless shelter ordinance, staff realized if a tent city wanted to locate in Edmonds, the City had no regulations in place. Because the City cannot prohibit a tent city, it was preferable to create regulations. Adopting the proposed regulations provides the ability to regulate tent cities and shape how they impact the community. This is the only way to provide some protections for the City and its citizens.

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO AMEND ITEM G TO READ, "THE TEMPORARY HOMELESS ENCAMPMENT SHALL BE LOCATED ON A TRANSIT ROUTE."

Councilmember Peterson did not support the proposed amendment, noting flexibility was paramount. He found ½ mile distance to transit service to be a reasonable distance.

Councilmember Plunkett expressed support for the amendment, noting a great deal can happen in ½ mile. During his first year on the Council in 1998, a facility that wreaked havoc on Councilmember Petso's neighborhood was the first big issue he addressed. That facility was within ½ mile of transit service but that distance was too far. He noted a facility could seek a variance from that requirement from the Hearing Examiner.

Councilmember Wilson asked whether there were any legal impacts of the proposed amendment. Mr. Snyder answered no, the Hearing Examiner has the ability to waive the requirement for appropriate cause. Planning Manager Rob Chave pointed out Item G in 17.20.030 is not the only provision that addresses transit. Item F requires the sponsor to have a transportation and parking plan in place.

Councilmember Wilson commented there were few facilities on a transit corridor if the definition of transit corridor was whether transit alternatives exist. There are arterials and high use streets in the City without transit and Community Transit reducing rather than expanding service. Westgate Chapel's parking lot may be the only example of a facility on a transit corridor. If requested by the host, he envisioned the Hearing Examiner would remove the requirement and thus there would be no distance from a transit stop. He viewed the ½ mile distance as a workable regulation.

Councilmember Wilson commented he was not familiar with the experience in Councilmember Petso's neighborhood. The majority of people who are advocates for the homeless are good people doing God's work; however, some like to make poster children out of municipalities who are obstructionists. Adding inflexibility to a proposal and inviting the Hearing Examiner to overturn it makes the City a target for that type of activism. He recalled the intent when developing this ordinance was to create a policy that could

not be used as poster child for the greater Puget Sound activists that would take the City to court. The more inflexible the City's regulations are, the more it invited tent city activists. The intent of the ordinance was not to invite but to regulate a potential tent city.

With regard to Mr. Chave's reference to Item F, Councilmember Petso explained when a person has the ability to park onsite, they lose the temptation to cause problems in route to and from the transit stop. She did not find a change was necessary to Item F. Nearly every church in Edmonds is located on a transit route except for Holy Rosary and the Presbyterian Church between Westgate Elementary and SR104. She did not envision this amendment would impair the ability for the community to serve a tent city; it would simply require them to be located near transit service.

UPON ROLL CALL, AMENDMENT FAILED (3-3), COUNCILMEMBERS PETSO, BUCKSHNIS, AND PLUNKETT VOTING YES; AND COUNCIL PRESIDENT BERNHEIM AND COUNCILMEMBERS WILSON AND PETERSON VOTING NO.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER PETSO, TO AMEND ITEM G TO READ, "THE TEMPORARY HOMELESS ENCAMPMENT SHALL BE LOCATED WITHIN ¼ MILE OF TRANSIT SERVICE."

Council President Bernheim commented his first priority was the homeless shelter and issues related to transportation could be addressed as they arose.

UPON ROLL CALL, AMENDMENT CARRIED (4-2), COUNCILMEMBERS WILSON, BUCKSHNIS, PETSO AND PLUNKETT VOTING YES; AND COUNCIL PRESIDENT BERNHEIM AND COUNCILMEMBER PETERSON VOTING NO.

In response to Councilmember Wilson's earlier request for a value statement regarding firearms, Mr. Snyder proposed the following whereas: "Whereas the City Council strongly recommends that hosts limit and/or prohibit firearms and weapons within homeless encampments."

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO AMEND THE MOTION TO INCLUDE THE FOLLOWING WHEREAS IN THE ORDINANCE, "WHEREAS THE CITY COUNCIL STRONGLY RECOMMENDS THAT HOSTS LIMIT AND/OR PROHIBIT FIREARMS AND WEAPONS WITHIN HOMELESS ENCAMPMENTS."

Councilmember Plunkett commented people have a God-given right to protect themselves in their homes. The State has no right to tell a poor person they cannot protect themselves. He did not support the proposed amendment as it would impinge on the personal liberties and rights of an individual to protect themselves.

Councilmember Wilson responded the proposed whereas did not impinge on a person's right to protect themselves nor did it declare that some people had more right to protect themselves; it was simply a value statement.

Council President Bernheim commented although he strongly supported gun control and did not believe that guns kept people safe, he would not support the amendment because he did not want to add unenforceable and distracting value statements.

MOTION FAILED (2-4), COUNCILMEMBER PETERSON AND COUNCILMEMBER WILSON VOTING YES.

Councilmember Wilson expressed concern with the last sentence in Item H of 17.20.030 “No children under 18 that are not accompanied by a parent or guardian are allowed in the temporary homeless encampment,” suggesting either striking the sentence or changing the age to 14. He suggested the host could have its own rule with regard to children under 18 and by deleting that requirement, the host would not be required to go through the Hearing Examiner process. Mr. Snyder responded that was not the direction most cities have taken; he would need to research it further.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO AMEND TO STRIKE THE LAST SENTENCE OF ITEM H (NO CHILDREN UNDER 18 THAT ARE NOT ACCOMPANIED BY A PARENT OR GUARDIAN ARE ALLOWED IN THE TEMPORARY HOMELESS ENCAMPMENT.)

Councilmember Wilson clarified his intent if the amendment passed was for Mr. Snyder to conduct further research.

Councilmember Buckshnis requested additional statistics, noting this raised the issue of runaways in homeless encampments. She agreed an age under 18 may be more appropriate but questioned how that age would be determined. Councilmember Wilson responded in most cases the managing agency/host do a great job of maintaining law and order within tent cities and many of the issues are not problems because they manage themselves. To Councilmember Buckshnis’ point, if someone who is 14, 15 or 16 runs away, they are not running away to a tent city, they are running away due to other issues. He wanted to create as safe a place for them to land as possible. He wanted to avoid a tent city being closed down for a code violation for allowing a 16-year old to stay.

Council President Bernheim did not support the amendment as he did not believe children unaccompanied by an adult should be in a temporary homeless encampment. He also preferred to defer the expense of further research until next year as legal expenses are already over budget.

Councilmember Peterson commented it would be ideal if children under 18 were not homeless. A member of the community accepted a job in downtown Seattle working with homeless youth. The issue is not just runaways who might be homeless for a few nights; there are many kids under the age of 18 who are permanently homeless. He preferred to give the managing agency flexibility with regard to homeless children under the age of 18. He assumed the host would contact whatever State agency or permanent shelter to find a better situation for a child under the age of 18; if there was no alternatives, that child needed a safe place to stay. He supported striking the last sentence of Item H and not having Mr. Snyder conduct any research.

Councilmember Petso commented her family experienced a runaway situation several years ago; the idea that the Council would be encouraging that was frightening to her. Councilmember Wilson clarified he was not encouraging runaways by the proposed amendment.

Mayor Cooper clarified the proposed amendment was to strike the language and did not specifically address Mr. Snyder conducting further research.

UPON ROLL CALL, MOTION TIED (3-3), COUNCILMEMBERS WILSON, PETERSON AND BUCKSHNIS VOTING YES; AND COUNCILMEMBERS PETSO AND PLUNKETT AND COUNCIL PRESIDENT BERNHEIM VOTING NO.

Mayor Cooper commented while all Councilmembers expressed very important points about what happened to homeless minors, a family member of his has dealt extensively with runaways on the streets

of Denver, Colorado. He suggested removing the limitation was a dangerous place for the Council to proceed as the police must deal with runaways in very specific ways.

MAYOR COOPER BROKE THE TIE BY VOTING NO AND THE MOTION FAILED (3-4).

THE VOTE ON THE MAIN MOTION AS AMENDED CARRIED 6-0.

6. PUBLIC HEARING ON THE 2011 REGULAR PROPERTY TAX, EMERGENCY MEDICAL SERVICES (EMS), AND DEBT SERVICE LEVY: PROPOSED ORDINANCE PROVIDING FOR THE ANNUAL TAX LEVY BY INCREASING THE REGULAR PROPERTY TAX LEVY BY THE CURRENT 101% LEVY LIMIT, THEREBY LEVYING AN ESTIMATED REGULAR PROPERTY TAX LEVY OF \$9,535,938, EMS LEVY OF \$3,477,741 AND LEVYING \$877,984 FOR VOTED INDEBTEDNESS FOR THE PUBLIC SAFETY COMPLEX.

Finance Director Lorenzo Hines explained the City's property taxes consist of a regular property tax, EMS property tax and bonds; the three combined total approximately \$13.891 million in 2011. In response to Council President Bernheim's question regarding when the City last had a property tax increase, he explained the regular property tax is increased approximately 1% per year. When possible, the City also increases the EMS property tax by 1%. He explained the EMS levy is limited to 50 cents per \$1000. As the assessed value of property increases and decreases, the EMS levy increases and decreases. The City began 2009 with an assessed value of \$7.7 billion; by 2010 it was \$6.955 billion. Based on conversations with Snohomish County, the projected assessed value in 2011 will decrease to approximately \$6.4 billion. As the City's assessed value drops, the EMS levy also decreases.

He provided an overview of how the increase in the regular property tax was calculated. The 2010 levy was \$9.383 million. An estimate for new construction is added to the 1% increase the City is allowed by law which results in the 2011 amount of \$9,359,380. Calculation of the EMS levy is similar to the regular property tax levy; however, because the assessed value for 2011 has decreased to \$6.4 billion, the amount expected to be collected based on the levy amount is approximately \$3.2 million. Given that amount is lower than the amount already levied, he made a decision to leave the EMS levy at \$3.477 because he only expected to collect \$3.2-\$3.2 million in 2011. The \$3.2 million is based on 50 cents per \$1000 of the assessed value.

With regard to bonds issued to pay for the Public Safety Complex, he explained the property tax related to the bonds increase each year according to the bond repayment schedule. The bonds were \$839,000 in 2009, \$853,000 in 2010 and \$877,000 in 2011 and scheduled at \$895,000 the following year.

Mr. Hines summarized the regular property tax, and EMS property tax and bonds comprise the City's property tax levy. The proposed ordinance includes a 1% increase in regular property tax plus construction and refunds, a zero increase over last year's EMS property tax levy, and the increase in the bonds per the schedule. He advised the slides he displayed would be provided to the Council tomorrow.

Councilmember Petso asked whether the Public Safety Complex bond was one of the bonds that could be refinanced. Mr. Hines recalled that refinancing of the Public Safety Complex bond was not feasible but he would need to verify that. Councilmember Petso asked if that bond had been refinanced in the past. Mr. Hines responded the 1996 issue was refunded in 2003. Councilmember Petso asked what interest rate was obtained in 2003. Mr. Hines answered he did not have that information with him. Councilmember Petso asked whether the amount of property tax was reduced when a bond was refunded. Mr. Hines assumed so but would need to check with Snohomish County.

If the City's total assessed value is declining and property tax receipts increase by 1% per year, Council President Bernheim asked whether the tax rate was skyrocketing. Mr. Hines agreed the tax rate was increasing but not in excess of the lawful amount. The historical tax rates have been:

- 2009 - \$1.81/\$1000 AV
- 2010 - \$1.98/\$1000 AV
- 2011 - \$2.11/\$1000 AV

Council President Bernheim asked what the statutory maximum was. Mr. Hines responded as the property tax is increased by 1%, the resultant dollars per \$1000 AV is the lawful amount.

Councilmember Plunkett pointed out the voters could approve an increase above 1% via a special levy.

Mayor Cooper opened the public participation portion of the public hearing.

Ron Wambolt, Edmonds, commented the 1% increase did not even cover the increase in costs. He questioned why the total property tax in the ordinance was \$283,000 more than the Mayor's budget. The total in the ordinance is \$13,982,000; the budget is only \$13,609,000. He asserted the number in the budget was more realistic. In 2009 the amount in the ordinance for EMS was \$3,865,000; the actual was \$3,855,000. In 2010 the amount in the ordinance for EMS was \$3,911,000; the following February the County Assessor's report was \$3,478,000 because property values had dropped 11%. He asserted there was no way the City would collect \$3,478,000 in EMS property taxes as he doubted property values would increase by 10% by the end of the year and even if they did, the value EMS taxes are based on was established January 2010.

Hearing no further comment, Mayor Cooper closed the public participation portion of the public hearing.

Mr. Hines explained the numbers in the budget represent a conservative estimate of what the City expects to collect. The number in the ordinance represents a ceiling; in the event property values improve, Snohomish County will not limit the City's collection of EMS taxes to \$3.2 million. The difference between the amount in the budget and the ordinance is a cushion in the event collections exceed the amount in the budget. Mayor Cooper clarified the ordinance reflects the maximum allowable rate that Snohomish County would allow the City to collect. Mr. Hines expected the City to collect \$3.2 million in EMS taxes; however, if that figure were included in the ordinance, the City could not collect over that amount. He advised he worked closely with the Snohomish County Assessor in drafting the ordinance.

Councilmember Wilson asked why the EMS levy was at 0%. Mr. Hines answered because he included last year's EMS amount. The City collected \$3.477 million last year; given that the projection was \$3.2 million in 2011, he left the amount at \$3.477 million.

Councilmember Wilson asked why the EMS levy was not increased by the allowable 1%. Mr. Hines answered it could be increased by 1% to approximately \$3.5 million. However he expected the City to collect approximately \$3.2 million.

Councilmember Wilson observed typically the City's assessed value has increased and the EMS percentage goes down. City Attorney Scott Snyder pointed out the 50 cents per \$1000 limit was established by the voters. Mr. Hines explained the \$6.4 billion of assessed value is a preliminary estimate provided by Snohomish County; they will release final numbers in approximately a month.

Councilmember Wilson observed the \$3.2 million for the EMS levy correlates to the 50 cents per \$1000 at the reduced assessed value. He asked how the City could exceed that amount. Mr. Hines answered it was possible if the preliminary estimate is low.

Councilmember Wilson asked the total amount a citizen can be levied in property taxes. Mr. Hines answered in Edmonds it was \$8 – 8.50; that amount includes City taxes, Port, School District, and other taxing districts. Mayor Cooper recalled the State maximum for property taxes was approximately \$10. Councilmember Plunkett commented the actual total was approximately \$12.50 because voter approved levies that can be outside the maximum. Mayor Cooper offered to provide a chart created by the Department of Revenue regarding maximum property tax rates.

Councilmember Buckshnis asked whether the EMS and property tax was included in the property tax levy in Exhibit 4A. Mr. Hines agreed they were.

Mayor Cooper advised the slides Mr. Hines displayed would be included in a packet of information regarding the budget that will be forwarded to the Council tomorrow following his review. That information is the first installment on the questions the Council raised at the October 26 Council meeting.

COUNCIL PRESIDENT BERNHEIM MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO APPROVE ORDINANCE NO. 3816, PROVIDING FOR THE ANNUAL TAX LEVY BY INCREASING THE REGULAR PROPERTY TAX LEVY BY THE CURRENT 101% LEVY LIMIT, THEREBY LEVYING AN ESTIMATED REGULAR PROPERTY TAX LEVY OF \$9,535,938, AN EMS LEVY OF \$3,477,741 AND LEVYING \$877,984 FOR VOTED INDEBTEDNESS FOR THE PUBLIC SAFETY COMPLEX.

Councilmember Petso commented she knew the City needed the money but she could not support the motion as she had not had an opportunity to review the slides and information that Mr. Hines presented tonight. She wanted an opportunity to review the information as well as the answers to her questions about the bonds for the Public Safety Complex.

Council President Bernheim commented he liked to get materials before the Council meeting so that it was his choice whether to review it. He did not like making decisions based on information that was not included in the Council packet. He supported the motion because he pledged his confidence in the finances to the Mayor. He relied on Mayor Cooper's pledge next year to accommodate the Council more completely with regard to the City's accounting system. He acknowledged the City had been in a financial transition due to the sale of the Fire Department.

Mayor Cooper clarified the slides that Mr. Hines displayed were in response to the question Council President Bernheim asked at the October 26 Council meeting regarding when the Council last raised property taxes. That information was not intended to be part of this agenda item but as part of the response to Council questions. Council President Bernheim suggested not showing the Council information unrelated to the agenda item.

Councilmember Plunkett commented the necessary information was included in the packet. He did not object to additional information, particularly associated with a question. He asked Councilmember Petso what other information she wanted included in the packet. Councilmember Petso responded although it had now been explained that the information Mr. Hines displayed was not about this agenda item, she still did not have answers to her questions about the Public Safety Complex bond.

Councilmember Plunkett inquired about the deadline to approve the ordinance. Mr. Snyder advised it must be submitted to the Snohomish County Assessor by November 30. Although he believed the

information necessary was included in the packet, Councilmember Plunkett said he would give deference to Councilmembers who felt they needed additional time and would not support the motion.

Councilmember Buckshnis referred to the December 31, 2009 unaudited statements that show EMS at \$3,806,497, the budget as \$3,856,851; the proposed ordinance shows it as \$3,477,000. Mr. Hines suggested she send him a PFD of the report she was referring to and they could discuss it.

COUNCIL PRESIDENT BERNHEIM WITHDREW HIS MOTION WITH THE AGREEMENT OF THE SECOND.

Council President Bernheim agreed to reschedule the ordinance on the November 16 agenda. He was hopeful all the questions raised by the Council could be addressed by that meeting and the answers included in the November 16 agenda packet. He requested Councilmembers contact Mr. Hines with any specific questions.

Councilmember Peterson stated the information pertaining to the ordinance is contained in the packet. Questions about refinancing the Public Safety bonds or the end of the year 2009 financials could have been asked in advance of the meeting. He was frustrated with the questions asked of staff tonight when this ordinance was a relatively simple process; the 1% property tax increase that the Council approves annually. He urged Councilmembers to contact staff with questions prior to the meeting.

Councilmember Wilson directed the following comments to Mayor Cooper: last week Mr. Hines did as sharp a job as he has done in his capacity as Finance Director and Mayor Cooper's management relationship was improving the Council's communication issues with the administration. He agreed with Councilmember Peterson that this was a standard ordinance and everyone should have had time to prepare. Although the information Mr. Hines presented was useful and informative, it would have been helpful to have it in the packet or at least distributed to the Council at tonight's meeting. The questions Mr. Wambolt raised are appropriate and he was annoyed that those questions exist. The Council may be making a fundamental strategic mistake by not increasing the EMS levy by 1%. Because of the potential of an RFA or reverse annexation, that number needs to be as high as possible.

Councilmember Buckshnis commented the report she referred to was the same report that she quoted the Fire overtime of \$795,707 and later learned not all the cost centers had been pulled. She agreed with Mr. Wambolt's questions regarding EMS. She relayed that Councilmember Petso has been asking questions about the bond refinancing since she was appointed.

Mayor Cooper assured the information and answers to questions relevant to this issue would be included in the November 16 agenda packet. He reminded the Council that the agenda memos must be completed in enough time to allow him to approve them by 3:00 p.m. on Thursday. He urged Councilmembers not to wait until Thursday morning to submit questions.

Mayor Cooper declared a brief recess.

COUNCIL PRESIDENT BERNHEIM MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO EXTEND THE MEETING FOR ONE HOUR. MOTION CARRIED UNANIMOUSLY.

7. PUBLIC HEARING ON THE UPDATE TO THE STREET TREE PLAN

Parks and Recreation Director Brian McIntosh explained in response to City Council concerns regarding the removal and replacement of street trees, particularly in the downtown, City Council requested a

review of the Street Tree Plan element of the Streetscape Plan. This review was conducted May 26, 2009 and concluded with Council recommending changes to better reflect current practices in removing and replanting trees, especially the caliper of replacement trees.

Subsequent to the May 26 meeting, the question of replacing or retaining the mature trees at 5th & Dayton was discussed several times at City Council throughout the late summer and fall. At the suggestion of the Public Works Director it was agreed to review the entire Street Tree Plan in 2010. The procedure to accomplish this has been:

- Incorporation of Council recommendations
- Staff review
- Review with the Planning Board
- Two public hearings with the Planning Board forwarding the recommended plan with amendments to City Council for a public hearing

While reviewing plan changes please keep in mind the following that will likely have bearing or future influence on this plan:

1. The City does not have a dedicated City Arborist. However, Parks and Public Works staff have been and are willing and able to provide assistance to citizens, Planning, Engineering, and the ADB when needed.
2. A Citizens Tree Advisory Board is being formed and issues mentioned such as incentives for tree preservation, significant & landmark trees, etc., may be appropriate for the new Board to review.
3. The Streetscape Plan, of which the Street Tree Plan is an appendix, will start its review (completed every 6 years) in late 2011.

Mr. McIntosh highlighted the following changes:

- Page 117 – addition of street tree pruning guidelines
- Page 118 – The vision has been revised as follows: The Edmonds Street Tree Plan exists to benefit the local community and business climate through enhancement of the identity and character of the downtown, gateways, neighborhoods and primary routes of travel. Street trees provide seasonal interest, summer shade, and a transition between the street and adjacent buildings and properties as well as the ecological services of providing habitat for wildlife, storm water management, and cleaning pollution from the air. Often this is through preservation of mature and significant trees. The plan recommends species which provide these benefits and are hardy, relatively easy to maintain, and tolerant of urban conditions. Whenever possible consider the use of native trees and new technologies in tree and sidewalk restoration and construction such as pervious sidewalks that drain naturally to provide water for street trees.

Street tree planting or replacement creates opportunities to consider drainage techniques such as bio swales and other natural storm drainage methods in new corner parks and bulb outs or by retrofitting existing facilities.

~~The plan recommends species which provide these benefits and are hardy, relatively easy to maintain, and tolerant of urban conditions. The City may modify or amend tree species selection in the future.~~

The City may modify or amend tree species selection in the future.

- Page 119 – changes were made to the Context paragraph of the Introduction section to include that Edmonds is a certified Community Wildlife Habitat city, reference the Sustainability Element of the City's Comprehensive Plan, and state that street trees provide a stronger sense of place and city edge definition.

- Page 120 – added to species selection that street trees should tolerate air and water pollution and provide air/water quality benefits through absorption of oils and other toxins.
- Page 121 – maintenance techniques are identified
- Page 121 – strengthened the Implementation paragraph
- Page 123 – removed reference to a minimum 3” tree caliper
- Page 125 – tree planting procedures
- Page 126 – added language regarding spacing
- Page 128 – added tree pruning guidelines
- Page 129 – added language regarding the use of effective and environmentally sensitive integrated pest management principals in the approach to pest management and disease. And example is the use of ladybugs to control aphids.
- Pages 130 & 131 – revised the street tree list
- Page 132 – added language regarding street trees approved with reservations and prohibited
- Page 134 – tree pruning guidelines
- Page 135 – single tree planting guidelines

Staff recommends the Council review and accept the revisions as recommended by the Planning Board. He advised the Street Tree Plan is part of the Streetscape Plan in the Comprehensive Plan.

Councilmember Buckshnis relayed compliments of Mr. McIntosh and Park Maintenance Manager Rich Lindsay at a recent Engaging the Environment gathering.

Councilmember Wilson referred to the removal of trees at 5th & Dayton during the past year where staff and the Council had a difference of opinion. Although it was the Council’s position that the trees should remain, at a Council meeting where he left early due to illness, then-Mayor Haakenson broke a tie vote regarding removal of the trees and the trees were subsequently removed. Although the current staff assured that would not happen, Councilmember Wilson wanted to ensure it would not happen in the future under different staff. He asked if language could be included that required a 1-2 week delay before trees were removed in intersections of special designation such as 5th & Dayton and 5th and Main. City Attorney Scott Snyder explained the Mayor administers the City on a day-to-day basis under the guidelines the Council provides.

Councilmember Wilson asked if a separate ordinance would be required or could language be included in this plan that requires a 1-2 week waiting period before tree removal could occur in special intersections. He referred to the designated special intersections identified in the plan. Mr. Snyder answered it could be added to the plan; the Mayor retains emergency authority to address public safety situations.

Councilmember Wilson recalled the argument then-Mayor Haakenson gave was the trees had not been maintained and that was in part why they had become a danger. He asked if the Plan required the Council to commit and fund as a priority maintenance of trees of special significance. Mr. McIntosh anticipated the Tree Board would identify legacy and landmark trees. Neighbors are responsible for trees in the right-of-way adjacent to their homes. The City maintains the 260 trees in the downtown core area. Maintenance may get behind such as last year when budget constraints eliminated seasonal park staff.

Councilmember Wilson clarified he did not want what happened at 5th & Dayton to happen again. Mr. McIntosh explained the trees at 5th & Main are a different variety and are much more appropriate for that area than the trees at 5th & Dayton. Those trees are currently healthy and robust; someday it may be necessary to remove them.

Councilmember Wilson clarified there was nothing in the Plan that protected trees of significance other than good staff. Mr. McIntosh anticipated the Tree Board would address that. The proposed amendment is an update to the Street Tree Plan which will be reviewed again at the end of 2011.

Councilmember Buckshnis commented she was familiar with people who want to participate on the Tree Board. They plan to consider legacy trees as well as have Edmonds designated as a Tree City USA.

Council President Bernheim suggested the following be considered during a future revision:

- Page 118 – Include a stronger statement regarding the importance of mature street trees to enhancing the pedestrian shopping experience. A number of studies correlate economic activity with mature shaded streets.
- Page 118 – Add criteria related to the last sentence of the vision statement. (The City may modify or amend tree species selection in the future.)
- Page 119 – Add to Context that street trees are an important aspect of encouraging and attracting pedestrians and shoppers to the downtown area.
- Page 120 – Next to the last bullet, add consideration of moving the sign.
- Page 120 – Species Selection bullets – providing shade and conform to pedestrians and tourists should be identified as a criteria.
- Page 122 – Add criteria to be satisfied before a small tree is planted in a space where a larger tree would be appropriate.
- Page 130 – Top of page – he preferred the use of native trees.

Mayor Cooper opened the public participation portion of the public hearing. There were no members of the public present who wished to provide testimony and Mayor Cooper closed the public participation portion of the public hearing.

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCIL PRESIDENT BERNHEIM, TO APPROVE THE STREET TREE PLAN AS RECOMMENDED BY THE PLANNING BOARD.

Councilmember Peterson referred to page 119 and suggested the statement “The Sustainability Element of the Climate Action Plan” should be “Comprehensive Plan.” Mr. Snyder agreed.

Councilmember Peterson inquired about the City’s policy with regard to fertilizer. Mr. McIntosh answered that had not been a topic of discussion related to this item. Mr. Lindsay commented tree planting is typically done by a landscape contractor and fertilizer is typically not an issue. Councilmember Peterson suggested consideration be given to guidelines regarding the use of fertilizer. Mr. Lindsay commented on the purchase of 4,000 ladybugs that were used to conquer an aphid infestation at Frances Anderson Center. Councilmember Peterson complimented staff on the document particularly the tree pruning guidelines.

MOTION CARRIED (5-1), COUNCILMEMBER WILSON VOTING NO.

8. PUBLIC HEARING ON THE PROPOSAL TO ALLOW DOGS ON LEASHES AT HUTT PARK.

Parks and Recreation Director Brian McIntosh explained at the April 20, 2010 public hearing in regard to allowing on-leash dogs at Hickman, Haines Wharf, and Sunset Overlook parks, a member of the public suggested that the 4.7 acre Hutt Park also be considered as an additional site for an on-leash park. Staff was not opposed but since this was a new suggestion it was thought that it was necessary to go through the same process as the previously mentioned parks being considered. This suggestion was discussed at the CS/DS Committee meeting August 10, 2010 and recommended to a public hearing.

Staff feels that this is an appropriate amendment given that the Hutt Park trails provide good connectivity and a great local natural park experience for walkers and their dogs in the neighborhood.

There are two proposed ordinances attached to the staff report. Staff and the Mayor recommend that dogs on leashes be allowed at Hutt Park. If Council concurs, the ordinance identifying Hickman, Sunset, Haines and Hutt Park should be approved. If the Council does not wish to include Hutt Park as an on-leash park, the ordinance identifying only Hickman, Sunset and Haines should be approved.

Mayor Cooper opened the public participation portion of the public hearing. There were no members of the public present who wished to provide testimony and Mayor Cooper closed the public participation portion of the public hearing.

Councilmember Buckshnis reported Jack Bevans and she have adopted Hutt Park. She has received numerous calls regarding this issue and everyone is supportive of including Hutt Park as an on-leash park.

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO APPROVE ORDINANCE NO. 3816, AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE EDMONDS CITY CODE SECTION 5.05.060, SUBSECTION (B) TO ADD NEW SUBPARAGRAPHS (9), (10), (11) AND (12) DESIGNATING THE WALKWAYS WITHIN THE PAVED AND WOODED PATHS OF HICKMAN PARK, AT THE SUNSET AVENUE OVERLOOK, HAINES WHARF PARK AND HUTT PARK TO PERMIT DOGS TO BE WALKED ON LEASH, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

City Clerk Sandy Chase advised the Council was provided emails from Ruth Arista and Janis Johnson, both in favor of Hutt Park being an on-leash park.

MOTION CARRIED UNANIMOUSLY.

Councilmember Wilson relayed that Council President Bernheim had asked staff last week why the signs prohibiting on-leash dogs on Sunset Avenue had not been removed when the Council took action several months ago directing staff to remove the signs. Mr. McIntosh responded that the signs had not been removed because all four of the parks could be done together and that the Council had not yet passed an ordinance allowing on-leash dogs at Sunset Avenue Overlook. Council President Bernheim subsequently issued a press release stating he planned to remove the signs himself. Although that may be great political gimmickry, Councilmember Wilson asserted it was not appropriate behavior for a citizen or the Council President. Removing the signs was a violation of the law; a citizen called 911 and a police report was filed.

As a result the Police Chief must now determine whether a citizen who breaks the law should be punished. When a citizen who also serves as Council President breaks the law, the City removes itself from a conflict of interest and refers the matter to the Snohomish County Prosecutor. If the Chief refers the matter to the Snohomish County Prosecutor, some may view it as political gimmickry. If he does not, some will view it as granting a favor to a Councilmember. In both circumstances the Chief is put in a terrible position. At a minimum he requested Council President Bernheim apologize to the community as well as staff.

9. AUDIENCE COMMENTS

There were no members of the public present who wished to provide comment.

10. MAYOR'S REPORT ON AUGUST 24, 2010 COUNCIL DIRECTION REGARDING CITY ATTORNEY REQUEST FOR QUALIFICATIONS (RFQ).

Mayor Cooper explained the RFQ was completed today and was issued either late this afternoon or will be tomorrow. He explained there were two people assigned to the Human Resources Department. When the Council directed the Mayor to do a RFQ for the Hearing Examiner and City Attorney, those requests were queued with the other tasks Human Resources was involved in which included research into a change in healthcare, collective bargaining preparations for the Teamsters, SEIU and Police Association, advertising for Mr. McIntosh's replacement, review and renewal of the Prosecuting Attorney's contract, review and renewal of the Public Defender's contract, rewriting the Emergency Operations Center Manual in addition to budget preparations and questions from the Citizens Levy Committee. Typically the City Attorney reviews RFQs; because it is anticipated the City Attorney will respond to the RFQ, Human Resources had to identify other resources to review the RFQ.

Mayor Cooper assured the delay was not because staff was ignoring the request for an RFQ; it was simply queued with other tasks. He anticipated there would be plenty of time for responses to the RFQ to be submitted and a City Attorney contract negotiated prior to the end of the year.

Mayor Cooper reported the Hearing Examiner RFQ has closed; only two qualified firms responded. He will review them and recommend one for confirmation by the Council. The Park & Recreation Director position has closed. Staff has narrowed the applicants to seven candidates who will be interviewed. Following interviews, three finalists will be interviewed by the Council before he makes his selection for confirmation by the Council.

Mayor Cooper explained the delay is a reflection of economic times when staff is reduced to the point where some departments only have a director and one person compared to neighboring cities that have 4-6 people assigned to Human Resources.

Councilmember Buckshnis commented Human Resources Director Debi Humann has been helpful with the Citizens Levy Committee. Senior Executive Council Assistant Jana Spellman and she have surveyed five cities regarding an in-house versus external City Attorney. She also plans to interview staff in two cities that recently changed from an external City Attorney to an in-house City Attorney. Mayor Cooper suggested the Council make a decision with regard to an in-house versus external City Attorney before he conducts a lengthy interview process for an external City Attorney law firm. He is proceeding with the understanding that at least for 2011 the City will utilize an external City Attorney. Councilmember Buckshnis explained the intent of her research is to ensure both options have been considered.

Mayor Cooper advised when the RFQ for the City Attorney closes, he will be in contact with Council President Bernheim with regard to the schedule because the City's ordinances suggest the Council be involved in the selection process.

Council President Bernheim commented no one doubted there was a lot of work to do. He referred to the motion that stated the City issue an RFQ for City Attorney services and Hearing Examiner services with all deliberate speed. He noted the Council did not typically state "all deliberate speed" as it was assumed the action would be accomplished promptly in all due course. He suggested to avoid the Council writing a policy such as it shall be the policy of the City Council to expect responses to ordinances and motions that are passed within 60 days or less, staff inform the Council if their direction could not be carried out within a month. He commented this was not simply an exercise; there are a lot of people who want a new City Attorney and this is the first step in accomplishing that. He was not satisfied with the timeline for preparing the City Attorney RFQ.

Mayor Cooper appreciated the criticism, reiterating there were items queued up that had a higher priority. He assured there was time for the RFQ process and selection of a City Attorney before the end of the

year. He emphasized tasks must be prioritized and that was part of his responsibility as the Chief Executive Officer of the City. He assured the delay was not an attempt to avoid or slow the process but was the result of other tasks in the priority list.

With regard to Council President Bernheim's statement that a lot of people want a new City Attorney, Councilmember Plunkett explained he voted in favor of an RFQ not because he wanted a new City Attorney but simply to see what costs and possibilities were available.

11. MAYOR'S COMMENTS

Mayor Cooper reported Mr. Clifton and he spoke at the WSF scoping meeting that was attended by approximately 30-40 people. At the beginning of the meeting the WSF representative asked how many in the room were opposed to improvements at the Main Street terminal; nearly everyone raised their hand. When they asked how many were from Edmonds, nearly everyone raised their hand. He overheard the WSF representative say that approximately 70% were opposed when it was really 90%. The scoping meeting is being televised at 5:00 p.m. and 7:00 a.m. daily. Representative Marko Liias spoke at the meeting as well as a representative from the Port of Everett who spoke in opposition to the ferry terminal in Everett.

Mayor Cooper reported Parks & Recreation Director Brian McIntosh is retiring and tonight was his last City Council meeting. His last date of work is November 10. He wished Mr. McIntosh well and thanked him for his 27 years of service to the City.

12. COUNCIL COMMENTS

Councilmember Buckshnis thanked everyone who has been scheduling meetings with her to review the budget. She also relayed comments received stating that she needed to stand up for herself especially when Councilmember Wilson states he does not believe the Citizen Levy Committee (CLC) is doing what it should be doing. She reported Lake Forest Park's levy committee met for 6-8 months before they made a decision regarding a levy and it took Shoreline's levy committee 16 months to reach a decision. She referred to information for the 2009 Levy Committee that she participated on, noting there was no discussion regarding financials because expenses were not deemed to be an issue. She summarized if there is a revenue problem there are expense problems. The CLC is moving forward; they still have not received accurate and current financial information. For example, the six month budget report included amendments that had not been approved by the Council and there are still numerous questions that have yet to be answered.

Councilmember Petso reported 10:45 p.m. was too late for public comment. She recalled in the past, public comment followed the Consent Agenda. As a Councilmember who participated in moving public comment later on the agenda, she suggested Councilmembers consider restoring it to the beginning of the agenda.

Councilmember Wilson commented his criticisms of the CLC were not flip; the months of the CLC's effort do not appear to have moved any closer to a decision on the size and shape of a levy or whether a levy is needed. Although he was familiar with Lake Forest Park and Shoreline's efforts, neither were analogous to the CLC's work. He questioned whether the work the CLC is doing was ever envisioned or endorsed by the Council when they gave support for forming the CLC. He agreed the CLC's work had value but it was not moving any closer to a decision regarding a levy.

With regard to last year's Levy Committee, Councilmember Wilson explained one of the four meetings addressed how \$4-5 million could be cut from the budget. He met with each Director to identify expenses that could be cut. He concluded the 60+ volunteers involved in the 2009 Levy Committee in a 3 hour meeting, a total of 180 volunteer hours, accomplished what the CLC has yet to accomplish.

COUNCIL PRESIDENT BERNHEIM MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO EXTEND THE MEETING FOR 15 MINTUES. MOTION CARRIED UNANIMOUSLY.

Councilmember Peterson congratulated Mr. McIntosh on his years of service and stated he would be sorely missed. He reported when passing by the ballot box at the Edmonds Library in the pouring rain at about 10:00 this morning, there were 10-12 people waiting to deposit their ballots. He anticipated Edmonds would again lead the state in voter turnout.

With regard to the sign removal, Council President Bernheim reported in February 2009 a woman complained to the Council that she was unable to walk her dog and sit on a park bench on Sunset Avenue due to a sign that stated it was illegal to sit with a leashed dog on the west side of Sunset Avenue. In April 2010 the Council voted to include the west side of Sunset Avenue as a park that allowed on-leash dogs. Immediately thereafter the City Attorney informed the Council he would return with an ordinance for approval on the Consent Agenda.

In September 2010, after many other inquiries, he sent an email to Mr. McIntosh asking why the signs had not been removed; he did not receive an answer. At the October 26 Council meeting, he again asked Mr. McIntosh why the signs were still up. Mr. McIntosh told him they were still up because there were other parks that might be opened to on-leash dogs in the future and they could all be handled via one ordinance.

Within 36 hours he sent an email to the Mayor requesting the signs on Sunset Avenue be removed and said if the signs were not removed he would do it himself in front of a newspaper photographer. On October 29 Mr. McIntosh emailed him to say the signs would be taken down after ordinances were considered regarding other parks. Council President Bernheim then sent an email to Mayor Cooper on October 29 stating if the signs were removed and the ordinance placed on the Consent Agenda he would forget about it. The agenda memo regarding the ordinance to allow on-leash dogs in Hutt Park states on April 20 the Council recommended amendments to the City code. He questioned the truth of that statement, finding it legally false. He asserted the Council voted on April 20 to open sunset Avenue to on-leash dogs.

Council President Bernheim acknowledged issuing a press release on October 30 stating that he would be removing the signs on Sunset Avenue. While he was removing the signs, a police car drove up and an officer approached him. He gave the officer the sign he had removed and the officer drove away. He removed another sign after the officer left which he left in front of City Hall. He spray painted out the word "no" on another sign that he was unable to remove so that the sign now reads "dogs allowed in park." He has been questioned by the police and has answered their questions fully and truthfully. As Council President he has done his best in this matter to exercise leadership and those efforts failed. As a citizen he has seen government take a stand and seen the administrative structure ignored. He has cooperated fully with the police and reviewed the public record to ensure that the law expressed in the signs was wrong. He took the most limited possible action by removing signs that incorrectly informed the public that they are not permitted to use a public park. He summarized he had done nothing wrong and was proud of everything he had done.

13. ADJOURN

With no further business, the Council meeting was adjourned at 11:08 p.m.